

Attorney's Docket No. 7132-1
Applicant or Patentee: Mark D. Robinson
Serial or Patent No.: 10/724,777
Filed: December 2, 2003
For: Manway and Manhole Particularly Suited For Negative Pressure Tank Access Ways

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(c) and 1.27 (c)) - SMALL BUSINESS CONCERN

I hereby declare that I am

() the owner of the small business concern indicated below:

(X) an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN The Stebbing Engineering and Manufacturing Company

ADDRESS OF CONCERN 363 Eastern Boulevard, Watertown, New York 13061-3194

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled:

**MANWAY AND MANHOLE PARTICULARLY SUITED
FOR NEGATIVE PRESSURE TANK ACCESS WAYS**

by inventor(s) **Mark D. ROBINSON**

described in

() the specification filed herewith
(X) application Serial No. 10/724,777, filed December 2, 2003.
() patent no. _____, issued _____.

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e). *NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

Name _____

Address _____

☐ individual ☐ small business concern ☐ nonprofit organization

Name _____

Address _____

☐ individual ☐ small business concern ☐ nonprofit organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING X ALFRED E. CALLIGARISTITLE OF PERSON OTHER THAN OWNER X PRESIDENTADDRESS OF PERSON SIGNING X 16605 DEER RUN ROAD WATERLOO, NY 13601SIGNATURE X Alfred E. Calligaris DATE X 12/1/2004

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by U.S. Patent No. 6,109,823 to Halferty et al., independent claim 19 has been amended to still further define thereover.

Amended claim 19 now sets forth that the claimed manway is configured for being provided on a negative pressure storage tank. In Fig. 2 of Halferty et al., as can be seen from the Halferty et al. description of the invention beginning at column 2, line 61 of Halferty et al., the Halferty et al. existing manhole 27 has been "retrofitted to accept an inwardly opening cover assembly reference 30." Such an inwardly opening cover is particularly suited for use on a positive pressure storage tank, unlike Applicant's outwardly opening manhole cover configured and claimed for being used on an outwardly opening tank.

Halferty et al. explained in column 1, beginning at line 19 that "by replacing the outwardly opening cover with one that opens inwardly, any material forces that are exerted against the cover will help to hold the cover closed and will prevent material stored in the tank from collecting in the manway."

It would have been readily apparent to a person having ordinary skill in the art that Halferty et al. was describing a positive pressure storage tank.

In sum, Halferty et al. would have taught directly away from

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Applicant's claimed invention, as Halferty et al. advocated the use of an inwardly opening manhole cover for use on a positive pressure storage tank, as opposed to Applicant's claimed outwardly opening manhole cover configured for being provided on a negative pressure storage tank.

For brevity of discussion, the patentability of the dependent claims which set forth additional novel and unobvious specifics of Applicant's invention, will be allowed to rest on their dependence from independent claim 19 at this time.

To provide Applicant with the varied scope of protection to which he is entitled, Applicant has set forth new dependent claims 42 and 43.

In sum, the application is submitted to be in condition for allowance with claims 19-22, 27-30, 42, and 43, of which claim 19 is in independent form.

Applicant has concurrently filed the attached Small Entity Declaration-Small Business Concern showing that assignee is entitled to small entity status.

Please charge our Deposit Account No. 19-2105 in the amount of \$490.00 (small entity) for a three(3) month extension of time.

According, it is believed that no additional fee is due for

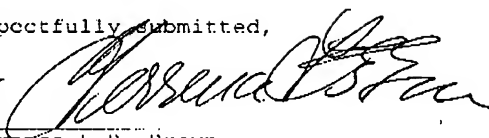
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this submission.

Should any outstanding formal matters or other issues remain, please call Terrence Brown to resolve such.

Respectfully submitted,

Date:

December 3, 2004 

Terrence L.B. Brown
Attorney for Applicant
Reg. No. 32,685

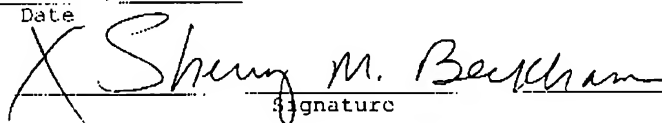
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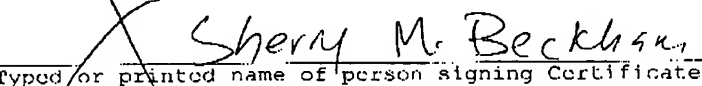
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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

On December 3, 2004

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